



PUBLIC NOTICE

Federal Communications Commission
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Initial Certification Window

FCC to accept certifications January 30 through March 1, 2004 for the approval of Digital Content Protection Technologies and Recording Methods to be used in Covered Demodulator Products.

By this Public Notice, the Commission announces the initial certification filing window for proponents of digital output protection technologies and recording methods. The window will open on January 30, 2004 and close on March 1, 2004.

On November 4, 2003, the Commission issued an *Order and Further Notice of Proposed Rulemaking* establishing a redistribution control content protection system for digital broadcast television.¹ This system includes compliance and robustness rules for Covered Demodulator Products which permits digital broadcast television content to be output in one of several ways, including via digital outputs protected by an Authorized Digital Output Protection Technology or to an Approved Recording Method.² The Commission also adopted an interim approval process for digital output protection technologies and recording methods and indicated that it would issue a public notice commencing an initial certification window as a part of this process.³

Filing Requirements. Certifications filed during this window must conform to the requirements articulated in the Commission's rules and include the following information:

- (1) A general description of how the digital output protection technology or recording method works, including its scope of redistribution,

¹ *Digital Broadcast Content Protection, Order and Further Notice of Proposed Rulemaking*, MB Docket No. 02-230, FCC No. 03-273 (rel. Nov. 4, 2003).

² See 47 C.F.R. §§ 73.9003(a), 73.9004(a).

³ See *id.* § 73.9008.

- (2) A detailed analysis of the level of protection the digital output protection technology or recording method affords content,
- (3) Information regarding whether content owners, broadcasters or equipment manufacturers have approved or licensed the digital output protection technology or recording method affords content, and
- (4) If the technology is to be offered publicly, a copy of its licensing terms and fees, as well as evidence demonstrating that the technology will be licensed on a reasonable, non-discriminatory basis.⁴

In preparing certifications, parties should provide sufficient information and detail to permit the Commission to fully evaluate the relevant digital output protection technology or recording method pursuant to the following criteria:

- (1) Technological factors including but not limited to the level of security, scope of redistribution, authentication, upgradability, renewability, interoperability, and the ability of the digital output protection technology to revoke compromised devices;
- (2) The applicable licensing terms, including compliance and robustness rules, change provisions, approval procedures for downstream transmission and recording methods, and the relevant license fees;
- (3) The extent to which the digital output protection technology or recording method accommodates consumers' use and enjoyment of Unencrypted Digital Terrestrial Broadcast Content; and
- (4) Any other relevant factors the Commission determines warrant consideration.⁵

Parties providing supplemental documentation with their certification should also include an index listing such documentation.

Commission regulations provide that proprietary and commercially sensitive information will be withheld from public disclosure, subject to the public's right to seek disclosure under the Freedom of Information Act, 5 U.S.C. § 552, 47 C.F.R. §§ 0.457(d), 0.459(d). Parties seeking confidential treatment of proprietary and commercial sensitive information should file a request pursuant to § 0.459 of the Commission's rules. Protective orders may be appropriate in specific circumstances.

Certifications must be filed during the window. Certifications filed earlier in the window will not receive any preference over those filed later in the window. Certifications filed before

⁴ See *id.* § 73.9008(a).

⁵ See *id.* § 73.9008(d).

January 30, 2004 will be returned; certifications filed after March 1, 2004 will be processed outside of the initial certification window timetable. Incomplete and patently defective certifications will be dismissed.

Where to file. Parties should file an original and four copies of each certification with the Commission's Office of the Secretary. During this initial certification window, parties must file paper copies of their certifications and clearly reference "Attn: Broadcast Flag Certifications."

Hand delivered certifications will be accepted at the Commission's offsite filing facility and should be addressed to: Federal Communications Commission, Office of the Secretary, Attn: Broadcast Flag Certifications, c/o Natek, Inc., 236 Massachusetts Ave., NE, Suite 110, Washington, DC 20002, between 8:00 am and 7:00 pm each business day during the window. Parties using commercial overnight services must address their certifications as follows: Federal Communications Commission, Office of the Secretary, Attn: Broadcast Flag Certifications, 9300 East Hampton Drive, Capitol Heights, MD 20743. Parties using the U.S. Postal Service must address their certifications as follows: Federal Communications Commission, Office of the Secretary, Attn: Broadcast Flag Certifications, 445 12th Street, SW, Washington, DC 20554.

In addition to filing with the Secretary, a copy of each certification should be sent to the Chief, Media Bureau, Attn: Broadcast Flag Certifications, 445 12th Street, SW, Washington, DC 20554.

Subsequent filings. Once the initial certification window has closed, the Commission will issue a separate Public Notice: (1) identifying the certifications received during the window, (2) assigning each certification a docket number, and (3) opening a 20 day filing window for comments or oppositions. At that time, parties will have the option of filing electronically using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments or oppositions must be filed during the relevant window. Comments or oppositions filed before the relevant window opens or after it closes will be returned.

Ex Parte Rules – Non-Restricted Proceedings. The consideration of each certification will be considered a non-restricted proceeding. Ex parte presentations are permitted, provided they are disclosed as provided in the Commission's Rules. *See generally* 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

Copies of this Public Notice are available in accessible formats (Braille, large print and audio cassette) by contacting Brian Millin at (202) 418-7426 (voice); 418-7365 (TTY).

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